

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Developing a Unified Intercarrier	)	CC Docket No. 01-92
Compensation Regime	)	

**REPLY COMMENTS OF GENUITY SOLUTIONS INC.**

Genuity Solutions Inc. (“Genuity”), one of the largest global Internet backbone providers, replies to the comments submitted in response to the Commission’s Notice of Proposed Rulemaking addressing the issue of intercarrier compensation (“NPRM”).<sup>1</sup> Irrespective of the intercarrier compensation scheme that the Commission ultimately adopts in this proceeding, Genuity supports those parties that urge the Commission to continue the unregulated status of Internet backbone providers. Regulation of the relationships between Internet backbone providers, now established by contract in an unregulated market, would stifle the development of the Internet and would accomplish none of the stated goals of “bill-and-keep” (“BAK”) compensation.

**A. Background**

Genuity is wholly owned by Genuity Inc., created when GTE’s Internet backbone and related data business was spun off into an independent company as a condition of the Bell Atlantic/GTE merger.<sup>2</sup> Genuity is a facilities-based Internet infrastructure supplier offering a comprehensive set of managed Internet access, web hosting and value-added e-business services, such as virtual private networks for secure data transmission and security services. It operates a global network consisting of domestic broadband fiber

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<sup>1</sup> *Developing a Unified Intercarrier Compensation Regime*, Notice of Proposed Rulemaking, 16 FCC Rcd 9610 (2001) (“NPRM”).

<sup>2</sup> *GTE Corporation and Bell Atlantic Corporation*, 15 FCC Rcd 14032 (2000) (“*Bell Atlantic/GTE Order*”).

optic cable, points of presence where Internet access is provided to end users and secure data centers. Genuity is commonly regarded as a Tier I Internet backbone provider.

In the NPRM, the Commission proposed to substitute a modified BAK intercarrier compensation scheme for the current system of interstate access charges for long distance services and reciprocal compensation for interconnected local calls. The modified scheme assumes that both parties to a call carried over two or more networks benefit equally from the call, obviating the need for one party's network to compensate the other network. The goals of this system would be to eliminate: (1) arbitrage opportunities arising from excessive intercarrier compensation rates and different rates for similar calls; (2) terminating access monopolies; (3) the possible need to pay different reciprocal compensation rates for the termination of calls over different types of networks; (4) inefficiencies in end user charges arising from the need to recover inefficient intercarrier compensation charges; and (5) distortions in service providers' decisions as to whether to interconnect with the network as a carrier or as an end user. Although the Commission did not intend to address the issue of interconnection agreements among Internet backbones, the NPRM also sought comment on whether the proposed system would be consistent with existing interconnection arrangements among Internet backbone providers.<sup>3</sup>

**B. Commenters Unanimously Support Continued Non-Regulation Of Internet Backbone Interconnection Arrangements**

The few initial comments addressing the treatment of Internet backbone interconnection arrangements unanimously support the Commission's tentative decision not "to intervene in this efficiently functioning market."<sup>4</sup> Cable & Wireless USA ("C&W") and Level 3 correctly argue that the mandatory BAK system proposed in the

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<sup>3</sup> NPRM, 16 FCC Rcd at 9656.

<sup>4</sup> *Id.* at 9656.

NPRM for the interstate access and local telecommunications markets is unnecessary for Internet backbone interconnection arrangements because of differences in market structure and technical distinctions. Unlike the interstate access and local markets, the Internet is not dominated by a single provider, to which all other providers must interconnect directly. Moreover, for comparable backbone providers exchanging roughly equal traffic volumes, the voluntary BAK arrangements that characterize peering relationships among providers meet all of the objectives of an efficient interconnection regime set out in the NPRM. Any concerns over network “tipping” (*i.e.*, where two networks are no longer in balance) can be addressed through means other than regulation, such as by the recent publication of guidelines for peering arrangements by Level 3, Genuity and other large backbone providers.<sup>5</sup>

C&W also explains that where there is an interconnection charge, competition ensures that Internet interconnection arrangements are cost-based and non-discriminatory. Transit services are provided at competitive rates close to cost, precluding any opportunity to discriminate among transit customers. Because the circuit switched concepts of origination and termination are irrelevant in an Internet protocol environment, there is no need to determine which party benefits from a “call,” as there is in determining the appropriate intercarrier compensation arrangements for circuit-switched calls. Peering requirements remove the need to negotiate over the relative costs or benefits of inbound and outbound traffic. Finally, Internet messages, unlike circuit-switched calls, are broken up and sent in packets over different routes to be reassembled at destination.<sup>6</sup> Thus, the mandatory application of BAK to Internet backbone interconnection arrangements would bring no benefits that the marketplace does not

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<sup>5</sup> Comments of Cable & Wireless USA at 22 (“C&W Comments”); Comments of Level 3 Communications, LLC, at 32-33.

<sup>6</sup> C&W Comments at 23-25.

bestow already, and BAK would generate measurement and other administrative headaches and unnecessary costs. Genuity agrees with C&W's and Level 3's conclusion that the Internet interconnection regime now operates smoothly without regulatory intervention.<sup>7</sup>

Other commenters also point out the benefits of the absence of regulation of Internet backbone interconnection arrangements.<sup>8</sup> The National Association of State Utility Consumer Advocates ("NASUCA") explains that, although BAK peering arrangements are used when Internet backbone networks are comparable in size and the traffic flows are roughly equal, compensation typically is paid when traffic or networks are not balanced.<sup>9</sup>

Genuity strongly concurs that Internet backbone interconnection arrangements should remain unregulated. The policy rationale for applying a mandatory BAK regime in other contexts is not relevant to the Internet, as explained by C&W and Level 3. Such regulation thus would impose all of the administrative costs and other detriments of interconnection regulation on the Internet without any of the benefits touted for the application of a BAK regime to access and local telecommunications markets. Significantly, this view is shared by parties that support the application of BAK to other markets and those that do not.<sup>10</sup>

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<sup>7</sup> *Id.* at 23.

<sup>8</sup> *See* Comments of America Online, Inc. at 4; Comments of Qwest Communications International, Inc. at 19 n.11.

<sup>9</sup> Comments of the National Association of State Utility Consumer Advocates at 14 ("NASUCA Comments"). *See also* C&W Comments at 23 (BAK arrangements used for Internet backbone interconnections only where networks and traffic flows roughly balanced).

<sup>10</sup> *Compare* NASUCA Comments at 6-18, 21-32 (opposing BAK), *with* C&W Comments at 9-21 (supporting BAK for other markets).

**C. Conclusion**

The Internet should remain unregulated in order to further the vigorous competition and diversity of offerings that characterize that sector of the telecommunications industry. Compensation arrangements between Internet backbone providers should therefore continue to be determined by the free market, irrespective of the intercarrier compensation scheme that is ultimately adopted for other sectors in this proceeding.

Respectfully submitted,

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November 5, 2001

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